MT LEGISLATIVE HISTORY

Chapter 327 1973

Bill (H) 488 S _____ Original bill & hist. ___C

H. Committee on Labor and Employment Relations S. Committee on Labor and Employment Relations

Hearing Date(s)		C	Hearing Date(s)		C
	FEB 7	✓C		FEB 28	✓C
	FEB 8	✓C		MAR 5	✓C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C		_____	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

CONSIDERATION OF HOUSE BILL 488:

Representative Joe Brand appeared before the Committee to explain the intent of his bill.

Proponents:

James Mular, BRAC
Lou Boudecker, individual
Representative Pat McKittrick
Jim Murray, Montana State AFL-CIO
Lee Torgimson, United Transportation Union

Opponents:

Ward Shanahan, Montana Railroad Association
P.E. Griffith, Reg. Mgr. Labor Relations, B.N. Inc.

Discussion period followed the testimony of the witnesses.

Meeting adjourned at 1:20 p.m.

GEORGE SIDERIUS, CHAIRMAN

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

The meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, March 5, 1973, at 12:30 in room 402 of the State Capitol Building.

ROLL CALL: All members present.

CONSIDERATION OF HOUSE BILL 357:

Senator McNamer moved to amend the title of the bill by striking the words "OR TO ACCEPT BETTER EMPLOYMENT", and to further amend subsection (1), page 2, lines 1, 2, and 3 by striking them in their entirety and to further amend page 2, line 4 by renumbering subsection (2) to read (1). Motion seconded. Motion carried.

Senator McNamer moved, seconded by Senator Lowe that HB 357 Be Concurred In As Amended. Motion carried.

CONSIDERATION OF HOUSE BILL 358:

Senator Bertsche moved, seconded by Senator Bennett that HB 358 Be Concurred In. Motion carried.

CONSIDERATION OF HOUSE BILL 214:

Senator Lowe moved to amend House Bill 214 on page 3, line 1 after the word "by" by inserting the word "all" and further amend page 3, line 3 after the word "individuals" by inserting the word "employed" and further amend page 3, line 4 by striking the words "performing services in such employment". Amendments seconded by Senator Keenan. Motion carried.

Senator McNamer offered an amendment on page 3, line 9 by striking the words and figure fifty percent (50%) and inserting in lieu thereof the following words and figures "forty-five percent (45%)". Motion failed.

Senator Bertsche moved, seconded by Senator Keenan that HB 214 Be Concurred In As Amended. Motion carried.

CONSIDERATION OF HOUSE BILL 444:

Senator Lowe moved that HB 444 Be Not Concurred In. Substitute motion made that HB 444 Be Concurred In. Motion carried. Senator Lowe withdrew his motion.

CONSIDERATION OF HOUSE BILL 488:

Senator Lowe moved that HB 488 Be Not Concurred In. Senator Shea submitted a substitute motion that HB 488 Be Concurred In, seconded by Senator Flynn. Motion carried, Senators Bennett, Lowe and McNamer opposing.

SENATE COMMITTEE Labor & Employment Relations

Date 3/5/73 Bill No. 488 Time

NAME	YES	NO
Art Jensen	X	
Bill Bastacha	X	
Elmer Flynn	X	
P.J. Keenan	X	
Jimmy Shea	X	
George Bennett		X
Matt Himal	X	
Bill Lowe		X
Jim Moore	X	
William McNamara		X
George Sidarius, Chairman	X	

Secretary Louise Sullivan Chairman George Sidarius

Motion: Senator Lowe motion to Do Not Concur.

Substitute motion that HB 488 Be Concurred In. Substitute

motion carried.

February 7, 1973

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the Labor and Employment Relations Committee was held on Wednesday, February 7, 1973 at 10:30 a.m. in Room 428A with Chairman Pat McKittrick presiding. All members were present except Reps. Ellerd, Lombardi, excused, and Flynn, absent.

HOUSE BILL # 444 -- SPONSOR: Rep. Swanberg explained that the bill attempted to amend section 41-701, R.C.M. 1947. The bill wants to give preference to bona fide Montana residents in the area of state employment. PROPONENTS: R. L. Rampy -- statement attached. Joe Rossman, Teamsters Union -- Can't see why the word "services" wasn't included in the bill originally. Jim Murry, AFL-CIO -- arose in support of the bill. No opponents. Questions followed.

HOUSE BILL #'s 357, 358 -- SPONSORS: Reps. Lynch and Lee: hearings were taken in conjunction on these bills as they were similar. Rep. Lynch introduced Mr. Fred Barrett, who then gave a short background on both bills. Several amendments were offered on HB 357, approved by the Employment Security Advisory Council. Three persons were disqualified from unemployment insurance benefits within the last year because they did not get the job they left their other job for, and had thought they would get. HB 358 -- Rick Mahoney left some material for the Committee's consideration in support of Hb 157. OPPONENTS: Chad Smith-- representing Unemployment Compensation Advisors -- The small business man is in opposition to these bills. Unemployment compensation is not designed to cover such areas. Similar bills have been defeated in the past years. Friends could get together and take advantage of this law if enacted. HB 358 deals with the creation of an artificial situation. It doesn't prevent an employee from earning wage credits on another job and drawing from those on his retirement also. P. L. MacDonald, Anaconda Company, was on the Advisory Council Mr. Barrett mentioned. Section 1, page 2, HB 357 -- is ambiguous and hard to enforce. Del Siewert, Montana C of C, is opposed to both of the bills because they are inconsistent with the law. Chad Smith then pointed out that a difference in retirement benefits could mean whether all or no unemployment benefits. Questions followed. Witnesses were excused.

HOUSE BILL # 488 -- SPONSOR: Rep. Joe Brand -- statement attached. James T. Mular, Brotherhood of Railways and Airline Clerks -- statement attached. Lou Boedecker, Pub. Service Commission -- statement attached. Ken D. Clark. United Transportation Union -- arose in support of the bill Rep. Brand closed by offering the amendment that in lieu of "on" "an" be inserted on line 23, page 1. OPPONENTS: Ward Shanahan, Mont. Railroad Assoc., -- statement attached. This bill would require an agreement between the employees and the Railroad. P. S. Griffith, Burlington Northern Inc., -- There are already protective agreements in existence covering almost all of the employees. In Montana there are approximately 136 employees that would be involved at the smaller stations where there would be a possibility of closure. What they already have is more far-reaching than this proposed

February 7, 1973

legislation. It is a matter of negotiation between the Association and the carrier. Mr. Ed Thomas, Union Pacific -- there is a national agreement that protects employees. Questions followed. Witnesses were excused.

HOUSE BILL # 279 -- SPONSOR: Rep. Hall was not able to be present to introduce this bill to the Committee, so in his place, Mr. Tony Softich, Labor Standards Division, presented testimony. Minor amendments were offered. It is a grave injustice to make small restaurants, etc., pay time and 1/2 for overtime of their employees. Jim Murry, AFL-CIO, -- this bill is setting a stronger standard for the Minimum Wage Act. It is not fair to have gratuities included in the minimum wage. This bill is fair to both employers and employees. No opponents. Questions followed.

HOUSE BILL # 326 -- SPONSOR: Rep. Kimble had some amendments which he went over with the Committee briefly. Bill Potts -- statement attached. We should upgrade Montana's safety laws. With the addition of crane operators licensing our safety record should be greatly improved. A quote from Power Magazine was read; copy enclosed. Causes of many crane accidents are because of incompetent or inexperienced operators. Exhibits from two contractors in favor of the bill were presented. Several written testimonies were submitted. Two resolutions, from the Union of Operating Engineers, and the AFL-CIO, were presented. OPPONENTS: Lloyd Pullum, Continental Oil Company -- statement attached. Chad Smith -- Wanted action on this bill to be deferred until SB 567 could be acted on in conjunction with it. The portion dealing with insurance boiler inspectors is unjustified. Gene Picotte, Holly Sugar Corp., -- Opposed to the boiler inspector part also. It will cause jurisdictional disputes among the unions. Harold Hanson, Boerner Waldorf Corp., -- arose in opposition also. Bill Evans, Operating Engineers Union member, -- the law concerning hoisting engineers has worked very effectively. He is against a crane operator being licensed because in places it is not necessary. Questions followed. Witnesses were excused.

HOUSE BILL # 345 -- SPONSOR: Rep. Tom Towe -- This bill provides for a cost of living increase of 2% per year for retired policemen. The retirement fund comes from: (1) Employees salaries; (2) a mill levy; (3) insurance; and (4) interest on funds already accumulated. Elwin Ness, Retired Police Officer -- statement attached. OPPONENTS: Maurice Mulcahy, Montana Police Protective Assn., -- funding would be a problem at this time. Questions followed.

Meeting was adjourned.

Chairman Pat McKittrick

Secretary

NAME Joe Brand BILL NO. #88

ADDRESS 800 Mont. Ave. DATE Feb. 7, 1973

Dear Lodge, Montana

WHOM DO YOU REPRESENT? Self

SUPPORT? ✓ OPPOSE? ____ AMEND? ____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME James T. Muir BILL NO. 488

ADDRESS P.O. Box 3084 DATE 2/7/73

Butte Mt 59701

WHOM DO YOU REPRESENT? Pac Power & Light Co

SUPPORT? X OPPOSE? AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

X allowed

STATEMENT IN SUPPORT OF HB 488 before Labor & Employment Committee Wednesday, February 7th 1973, by Representative Brandt

Mr. Chairman, members of the committee, I appear today in support of HB 488; which if enacted merely imposes an obligation that the carriers by railroad are already required to perform whenever they abandon track, combine properties by merger, discontinue train scheduled service and in bankruptcy proceedings.

As you know my occupation is a railroad conductor for the Milwaukee Road. During the past eight years I have attended passenger train discontinuance hearings. Also track abandonment cases. These were all conducted by field examiners of the ICC. And all cases whenever they were approved were conditioned with the examiners imposition of the 45 USC Sec. 5(2)f of the Interstate Commerce Act.

This section provides for the job protection of employees as contained in HB 488. The only difference between HB 488 and the ICC act is that the Interstate Commerce Commission only has jurisdiction over rail mergers, bankruptcy proceedings, train discontinuances, and track abandonments, whenever they apply to interstate rail carriers.

The ICC does not have intra-state jurisdiction over station closure, stock yard abandonments, and switch yard facilities, which are located wholly within the state. This jurisdiction lies with the Montana Railroad Commission.

HB-488 if enacted would empower our Montana Railroad Commission to deal with job protection; which is limited under the ICC Act. In other words it would up date the power of our Mont. Commission to regulate commerce more closely related within the state.

The most recent of ICC branch line abandonment cases which I attended was the Red Bluff between Saopington and Harrison Montana. Under that hearing; which was subsequently overturned by Federal Court Order, the ICC imposed the conditionsof Sec 5(2)f of the ICC Act, for the protection of employes.

However, the most recent attempt to close a Railroad Station at Avon-Elliston on Jan 26th of this year - the commission could not impose job employee protection, because there is no Statute vesting this authority. The same is tru of the attempts to close Noxon, Mont and dualize Stevensville with Hamilton. There is a docketed closure attempt at Crow Agency Montana. I wonder if the railroads aren't using our Railroad Commission as a hatchet man to act as an arbitrary labor board in the abolishment of jobs and degrading service by station closures?

With the enactment of HB 488 the Railroad Commissioners of Montana would be empowered to act as does the Interstate Commerce Commission. Your hopefull do pass of this legislation would enable Montana to regulate commerce within the state commensurate with the ICC.

Thank you....

Brief in Support of HB 488 submitted by James T. Mular, Legislative Chairman, Bro. Ruy. & Airlines Clerks to the Labor & Employment Committee, Montana House of Representatives Wed. 7th Feby 73.

Mr. Chairman, members of the committee, my appearance today before your committee in support of HB 488 deals with three different subjects relating to the support of this matter. As a union representative that has appeared at numerous station closures in Montana, I've always been confronted with the Montana RailroadsCommissions' refusal to impose employee protection, whenever our class and craft were affected by station closures. In some instances I was informed that if there was a sister state that had some analgous method of protection, the Montana Commission would consider its merits.

After four years on Jan 17 th 1973, the commonwealth of Maryland Public Service Commisionis in Penn Central Case 6499 their Order No. 60134 refused to close stations in Baltimore, Newark, Delaware, Field Terminal; and Washington DC field Terminal and awarded employe protection. With this first and historic award it was conceded that the Maryland Public Service Comission was vested with authority to impose employe protection.

Subsequently, our BRAC organization, along with the United Transportation Union, and the Brotherhood of Maintenence of Way Employees, instituted a joint legislative effort to have legislation introduced in the states of Oregon and Washington during this legislative session. This effort was coordinated with alike legislation which is presently identified as Montana HB 488. Bill numbers have not been assigned in Oregon or Washington as they are now being researched by these respective legislative councils.

However, Montanas bill is before your committee. The language in the bill is specific and empowers the Montana Railroad Commission to impose employee protection. It is patterned in essence after an alike act under 45 USC Sec 5(2)f. However, this act only reaches down to rail mergers, bankruptcy, trains and schedule discontinuances, along with branch line and track abandonments.

States are empowered to regulate stations, stock yards, and multiple yard facilities. The ICC lacks jurisdiction, inasmuch as this is applicable to a states internal law. In this Case the Montana Railroad Commission.

Recently I appeared in opposition to the dualization of Stevensville with Hamilton, Ravalli County, Montana. Therein I submitted in testimony that the Railroad Commission could consider the ex merits of the Maryland case; which I've just cited. An alike request was made at a hearing to discontinue the stations of Avon and Ellliston. The commission accepted my testimony, however the results of that testimony are not binding on the commission. H B 488 would've required the commission to impose that particular Maryland award.

(more reverse side)

The second part of my test imony before your committee deals with a general reason why the organizations that I've mentioned herein are seeking out this type of state protection.

During the last month of 1970 a nationwide strike was called. The railroads subjected our class and craft to what is commonly referred to as the option procedure of merging different class and crafts into a dovetail of seniority. They are referred to as p option B A.B.C. The employees had to take one of those options before they could get their Jan and Apr 1973 wage increases.

Briefly these options dealt with merging the Telegrapher-Agents with the Mail Clerks. We alluded to option C with dovetail of both craft seniority rosters. Whereupon, the carriers agreed to what is commonly referred to as the annual guarantee or job protection. Subsequently the carriers withdrew from the negotiations in January. Mr. T.C. Dewitts of the Labor Relations Dept. of the MP withdrew that carriers intent to negotiate the protection that they originally awarded the employee with the coming of that propertys merger of the MP CnQ and CM SPS.

More and likely opponents to this legislation will tell you that these matters are negotiable. I've just cited to you, that negotiability is not seen in the foreseeable future when it applies to station Zones within the collective bargaining agreement. From this comes the obvious that rail carriers throughout the country are seeking to use State Regulatory Agencys to meet their corporate evasion of a collective bargaining agreement. Thus the rag labor organizations are requesting to a remedy available to us by legislation. I

HB 488 if enacted is not in conflict with any federal law. It provides that any negotiability between the parties is recognizable at law. Thus satisfying the railway labor act. Too, the states have the right to regulate commerce within thier borders. Stations and facilities are NK subject to that right. However in the absence of statutory law the commission being a ward of the legislature is powerless to impose any protection for affected rail employes in dealing with facility or station closures.

To illustrate the uniqueness of HB 488 DSC 45 Sec5(2)f - I was opposent to the Park Line Branch Abandonment between Arlshia 10 miles south of Livingston to the end of the line at Gardiner Montana. In that hearing we submitted employee protection under the federal statute. The Commission is required by federal law to award that protection. Why can't the Montana Railroad Commission have the same statuttry powers as the Interstate Commerce Commission when dealing with stations and facilities within Montana borders?

It is with the foregoing statements that I submit to you for your deliberations the reasons that this legislation is vital for a well rounded economic growth of Montana. Hopefully your committee will see fit to allow a DO PASS on the merits of the legislation contained in HB 488.

Respectfully submitted,

NAME Lou Bordecker BILL NO. 438

ADDRESS Public Service Comm DATE 2/7/23

WHOM DO YOU REPRESENT? Public Serv Commission

SUPPORT? X OPPOSE? AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

February 6, 1973

HOUSE BILL NO. 488

Lee Boerstler
Montana Power Co.

Apparently the present situation is that either by Federal Law or through the merger agreements on any matter before the ICC wherein any rail employees may be adversely effected, the ICC is empowered to enact certain job protection plans for the rail employees. These usually include job protection plans guaranteeing the displaced employee a like position either in his own district or region or elsewhere. Degree of seniority usually is involved in this job placement. If no jobs are available the employees usually have some kind of option such as early retirement at greater pay.

The difficulty in House Bill No. 488 is that if enacted, it requires the Commission to become involved in what is really an internal affair of management when dealing with employees who are probably represented nationally by a national labor organization. The railroads may urge that state interference conflicts with national contracts but we have no way of knowing that.

HOUSE BILL NO. 488

1. House Bill 488 applies to railroads only. R.C.M. 72-115-defines railroads under jurisdiction of this Commission.

2. The Bill provides that when a railroad shall be granted authority to close a station or facility, the Commission must require job protection. Before approving the closing the Commission must require from the railroad an agreement to protect employees effected by providing jobs equal in nature and pay to the job held by the employee six (6) months prior to the closure.

3. The equal nature and pay agreement must have been in effect at least four (4) years or the number of years the employee has been employed whatever is shorter.

4. Even with this bill in effect other agreements between the railroad and employees may be entered into.

(line 23-last word "on" seems like it should be "an" agreement and therefore the agreement can be entered into.)

This Bill applies to station closings or facilities closing. Anything else, e.g. rail abandonment, train discontinuance etc; have been preempted by Federal Law-(ICC).

Really nothing wrong with Commission requiring job protection on station or facility closings because we already have jurisdiction of health and sanitation of rail employees (R.C.M. 1947 72-150) in regard to trains, engines, sanitation and adequate shelter. Therefore this will allow Commission to act in areas where Federal law does not act, i.e. station closings and facility closings.

72-150. (3x27) Rules for equipment of cars, trains, engines, and health and sanitation. The railroad commission of the state of Montana shall have full authority, after notice and hearing, to make and enforce rules and regulations providing for the installation on and equipment of trains, cars, or engines, with safety appliances, and providing for sanitation and adequate shelter as it affects the health of all railroad employees, including, but not limited to, trainmen, enginemen, yardmen, maintenance of way employees, highway crossing watchmen, clerical, platform, freight house and express employees; and shall have authority to inspect the same and enforce regulations with regard thereto, such inspection rules and regulations to be from time to time co-extensive with the requirements of, and in conformity to, the provisions of the acts of Congress, and rules and regulations of the interstate commerce commission and the department of transportation as then effective.

HOUSE BILL NO. 788

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR JOB PROTECTION FOR RAILROAD EMPLOYEES AFFECTED BY CLOSURE OF RAILROAD STATIONS AND FACILITIES."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Whenever any railroad, as defined in section 72-115 is granted the authority to close a railroad station or facility by order of the public service commission, it shall be incumbent on the commission to require employee protection. Before the commission may approve closure of a station or facility, it shall require from the railroad an agreement to protect employees affected by the closure by providing jobs equal in nature and pay to the job held by the employee for the six (6) months prior to such closure. The equal job and pay agreement must be in affect for a period of four (4) years or, in the alternative, the number of years the employee has been employed prior to closure, whichever is shorter. Notwithstanding any other provisions of this section, an agreement pertaining to protection of the interests of affected employees may be entered into between the railroad

and duly authorized representatives of the employees.

-End-

NAME Kenneth D Clark BILL NO. HB 484

ADDRESS 322 N 9th St DATE 2-7-75

Miles City Mt. 59301

WHOM DO YOU REPRESENT? United Transportation Union

SUPPORT? X OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME James W. Murry BILL NO. HJR 38

ADDRESS P.O. Box 1176 DATE 2-2-77

Helena, Mont.

WHOM DO YOU REPRESENT? Mont. State AFL-CIO

SUPPORT? ✓ OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Kaufman Carl A BILL NO. 488

ADDRESS Glendive Montana DATE 2-7-73

WHOM DO YOU REPRESENT? Brotherhood Maint. Way Emp

SUPPORT? ✓ OPPOSE? _____ AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME WARD SHANAHAN BILL NO. 488

ADDRESS 917 GILBERT ST HELENA DATE

WHOM DO YOU REPRESENT? MONTANA RAILROAD ASSN

SUPPORT? OPPOSE? ✓ AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

See attached

MONTANA RAILROAD ASSOCIATION STATEMENT
IN RESPECT TO HOUSE BILL 466

This statement is made on behalf of all of the railroads operating in Montana by the Montana Railroad Association by their duly authorized representative.

The purpose of House Bill 466 is to provide job protection for employees affected by railroad station closures ordered by the Public Service Commission of Montana under R.C.M. 1947, Section 72-115. This protection includes equal job and pay agreements which are required by the railroad before a station closure can be granted. It is not clear, however we assume that the requirement of the Bill is that the agreement must be effective for a period of four years, at least. Under the Bill, and the agreement between the railroad and the representative of the employees would supersede or replace the provisions of the Bill.

The subject matter of this Bill is, as has been the case with several previous bills offered by Representative Brand, a subject for labor negotiation. Section 1 of the Railway Labor Act (45 USCA Section 152) provides.

> "First, it shall be the duty of all carriers, their officers, agents and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules and working conditions, and to settle all disputes, whether arising out of the application of such agreements or otherwise, in order to avoid any interruption to commerce or to the operation of any carrier growing out of any dispute between the carrier and the employees thereof."

Section 6 of the Railway Labor Act provides that in case of a dispute between the carrier and its employee arising out of grievances or out of the interpretation or application of agreements, either the carrier or the employees are obligated within ten days after the receipt of a notice of the desire on the part of either party to negotiate in respect to such dispute, to set a time and place and enter into negotiations (45 USCA Section 152, Subsection 6).

It is the position of the Montana Railroad Association on behalf of the carriers represented that the Railway Labor Act supersedes any effective state action in this area. See

> Ark. La. v. Industrial Welfare Commission, 2[illegible] 235, 211 Ca. 2d 72[illegible], (1963)
>
> Chicago and N. W. Ryco v. UTU, 91 Supreme Court 1731, 4[illegible] U.S. 570, 29 L. Ed. 2d 187 (1971)

In the latter case it was said by the Supreme Court of the United States

> "The provision of this section that it shall be the duty of the carriers and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules and working conditions was intended to be not [illegible] a mere statement of policy or an exhortation to the parties, but was designed to be a legal obligation enforceable by [illegible] appropriate

Provisions of the Railway Labor Act are found to be specifically applicable to station closing job protection agreements by the Supreme Court of the United States in the case of Railroad Telegraphers v. Chicago and N. W. Ryco, 362 U.S. 330, 4 L.Ed 2d 774, 80 SCT 761 (1960) where abolition of existing positions was held to be a bargainable issue.

Witnesses will be presented to the Committee to explain existing job protection agreements for the benefit of the members of the Committee and to answer questions propounded to them.

We respectfully submit that this Bill should receive your "Do Not Pass" recommendation.

John L. Melano, Executive Director
and
Ward A. Shanahan, Legislative Director
Montana Railroad Association
Stockman's building
Helena, Montana 59601

NAME E. H. Thomas BILL NO. 455

ADDRESS 726 So. Oak DATE 2-7-73

Rocklin, Calif.

WHOM DO YOU REPRESENT? Union Pacific Railroad

SUPPORT? _____ OPPOSE? X AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME W S Huppich BILL NO. 485

ADDRESS 2775 Custer Ave DATE 2/7/73

Billings Montana

WHOM DO YOU REPRESENT? Burlington Northern Inc.

SUPPORT? _____ OPPOSE? X AMEND? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

February 8, 1973

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the Labor and Employment Relations Committee was held on Thursday, February 8, 1973 on adjournment of the House in Room 428A with Chairman Pat McKittrick presiding. All members were present except Reps. Lombardi and Lee, who were excused, and Rep. Ellerd.

No bill hearings took place. The following action was taken:

HOUSE BILL # 279: Rep. Tierney moved that it DO PASS; Rep. Hodges seconded the motion. Discussion followed; motion carried unanimously.

HB # 444: Rep. Baeth moved that it DO PASS; Rep. Hodges seconded the motion. Discussion followed; motion carried. Those opposed: Reps. East, Turner and Bell.

HB # 344: Rep. Tierney moved that it DO PASS; Rep. Hodges seconded the motion. Discussion followed and the motion was then carried. Those opposed were Reps. East and Turner. McKittrick abstained.

HB # 345: Rep. Hodges moved that it be HELD OVER UNTIL 1974. Rep. Bell seconded the motion. Motion carried unanimously.

HB # 357: Rep. Baeth moved that it DO PASS. Motion seconded by Rep. Kimble; discussion followed. Motion carried; those opposed were Reps. East, Turner, Flynn and Bell.

HB # 358: Rep. Bell moved that it DO PASS. Rep. Turman seconded the motion. Discussion followed. Motion carried with East voting no.

HB # 194: Subcommittee report: Both proponents and opponents of the bill were in agreement that this bill should not have any action taken on it until next session. Rep. Turner then moved and Rep. Colberg seconded that action be deferred on the bill. Motion carried unanimously.

HB # 488: Rep. Turman moved that it DO NOT PASS; seconded by Turner. Discussion followed. Motion failed. Those in favor of the motion were Reps. Colberg, Turman, East, Flynn, Bell and Turner (paired with Lee). Those opposed to the motion: Reps. Tierney, Bennetts, Baeth, Hodges, Kimble and McKittrick. Rep. Colberg then moved that it DO PASS. Seconded by Rep. Bell. Motion carried; those opposed were Reps. Turman, Turner (who paired with Lee), East, Bell, and Flynn. Rep. Hodges, Baeth, Bennetts, Tierney, Colberg, Lee (on a paired vote), Kimble and McKittrick.

Meeting was adjourned.

Chairman Pat McKittrick

Secretary

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 41-701, R.C.M. 1947, is amended to read as follows:

"41-701. **Preference of Montana labor in public works — wage scale — not to conflict with federal statutes.** In all contracts hereafter let for state, county, municipal, school, heavy highway or municipal construction, *services*, repair and maintenance work under any of the laws of this state there shall be inserted in each of said contracts a provision by which the contractor must give preference to the employment of bona fide Montana residents in the performance of said work, and that the said contractor must further pay the standard prevailing rate of wages including fringe benefits for health and welfare and pension contributions, and travel allowance provisions in effect and applicable to the county or locality in which the work is being performed. "Standard prevailing rate of wages including fringe benefits for health and welfare and pension contributions, and travel allowance provisions, applicable to the county or locality in which the work is being performed," means those wages including fringe benefits for health and welfare and pension contributions, and travel allowance provisions which are paid in the county or locality by other contractors for work of a similar character performed in that county or locality by each craft, classification or type of workman needed to complete a contract under this act. When work of a similar character is not being performed in the county or locality, the standard prevailing rate of wages including fringe benefits for health and welfare and pension contributions, and travel allowance provisions shall be those rates established by collective bargaining agreements in effect in the county or locality for each craft, classification or type of workman needed to complete the contract. No contract shall be let to any person, firm, association or corporation refusing to execute an agreement with the above-mentioned provisions in it; provided that, in contracts involving the expenditure of federal aid funds this act shall not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged soldiers, sailors and marines, and prohibiting as unlawful any other preference or discrimination among citizens of the United States. All public works contracts under this act shall be approved in writing by the legal adviser of the contracting state, county, municipal corporation, school district, assessment district or special improvement district body or officer prior to execution by the contracting public officer or officers. The Montana commissioner of labor and industry shall undertake to keep and maintain copies of collective bargaining agreements and other information from which rates and jurisdictional areas applicable to public works contracts under this act may be ascertained. Whenever the employer is not signatory party to a collective bargaining agreement, those moneys designated as negotiated fringe benefits shall be paid to the employee as wages."

Approved: March 19, 1973.

CHAPTER NO. 376

An Act Implmenting Article II, Section 28, Article IV, Sections 2 and 4, and Article XII, Section 3 (2) of the 1972 Montana Constitution and H.B. 28 of this Session Providing the Term "Of Unsound Mind" to Include Other Like Terms in the Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be added at the beginning of chapter 7, title 38, R.C.M. 1947, reading as follows:

Any reference to the terms "insane" person, "incompetent" person, a person with a "mental disease or defect," persons "disordered in mind," persons "unable to handle their own affairs," persons "feeble minded, moron, imbecile, idiot and mentally deranged," and all other like references in the Revised Codes of Montana, 1947, mean "of unsound mind."

Approved: March 19, 1973.

CHAPTER NO. 377

An Act to Provide for Job Protection for Railroad Employees Affected by Closure of Railroad Stations and Facilities.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Whenever any railroad, as defined in section 72-115 is granted the authority to close a railroad station or facility by order of the public service commission, it shall be incumbent on the commission to require employee protection. Before the commission may approve closure of a station or facility, it shall require from the railroad an agreement to protect employees affected by the closure by providing jobs equal in nature and pay to the job held by the employee for the six (6) months prior to such closure. The equal job and pay agreement must be in

effect for a period of four (4) years or, in the alternative, the number of years the employee has been employed prior to closure, whichever is shorter. Notwithstanding any other provisions of this section, an agreement pertaining to protection of the interests of affected employees may be entered into between the railroad and duly authorized representatives of the employees.

Approved: March 19, 1973.

CHAPTER NO. 378

An Act Establishing Bluebunch Wheatgrass as the Official Grass for the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 19-124 which reads as follows:

19-124. The grass known as bluebunch wheatgrass, agropyron spicatum (pursh), shall be designated and declared to be the official grass of the state of Montana.

Approved: March 20, 1973.

CHAPTER NO. 379

An Act Amending Section 3-512, R.C.M. 1947, to Provide that the State Grain Laboratory at Great Falls be the Only One Authorized to Test Public Warehouse Grain and that the Fee Charged for Testing on Appeal be Commensurate with the cost.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 3-512, R.C.M. 1947, is amended to read as follows:

"3-512. **Protein test to be made of all wheat delivered grain warehousemen—manner of making test—result—fee.** Each public grain warehouseman as defined by the laws of the state shall take a sample from each load of wheat delivered to his warehouse and preserve such sample in an air-tight container with the owner's name thereon. As hauling is completed by each owner the several samples taken from all the loads of any one owner shall be mixed thoroughly together, except that high, medium, or low protein wheat from the same owner or wheat of different types, varieties or grades shall be segregated and separate containers provided for each. A one-pint portion of the composite

sample shall be submitted to the state grain laboratory at Great Falls and the balance shall be held in the owner's container. In the event of dissatisfaction on the part of warehousemen or owner either party shall have the right to a final appeal to the state laboratory.

In case of an appeal a one-pint portion of the remainder of the owner's sample shall again be submitted to the state laboratory with a statement of facts of the appeal and a final test in duplicate shall be made by the laboratory. The certificate of the state laboratory of such test shall be final and binding upon both parties in establishing the basis of the price paid by the warehouseman. A fee *commensurate with the cost of* each protein test *shall* be made, to be deducted and paid at the time of final settlement; provided, however, upon written request of owner, no protein test need be made upon said owner's wheat."

Approved: March 20, 1973.

CHAPTER NO. 380

An Act Providing for a Comprehensive State Insurance Plan and Tort Claims Procedure to be Known as the "Montana Comprehensive State Insurance Plan and Tort Claims Act."

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act shall be known and may be cited as the "Montana Comprehensive State Insurance Plan and Tort Claims Act."

Section 2. As used in this act:

(1) "State" means the state of Montana or any office, department, agency, authority, commission, board, institution, hospital, college, university or other instrumentality thereof.

(2) "Political subdivision" means any county, city, municipal corporation, school district, special improvement or taxing district, or any other political subdivision or public corporation.

(3) "Governmental entity" means and includes the state and political subdivisions as herein defined.

(4) "Employee" means an officer, employee, or servant of a governmental entity, including elected or appointed officials, and persons acting on behalf of the governmental entity in any official capacity temporarily or permanently in the service of the governmental entity whether with or without compensation, but the term